

UNITED STATES DISTRICT COURT  
WESTERN DISTRICT OF TEXAS  
SAN ANTONIO DIVISION

UNITED STATES OF AMERICA, )  
 )  
Plaintiff, )  
 )  
vs. ) Docket No. SA-14-CR-211(1)-FB  
 )  
CARL WADE BAILES, ) San Antonio, Texas  
 ) November 6, 2014  
Defendant. )  
 )

TRANSCRIPT OF MOTION HEARING  
BEFORE THE HONORABLE FRED BIERY  
CHIEF UNITED STATES DISTRICT JUDGE

A P P E A R A N C E S:

FOR THE PLAINTIFF:

UNITED STATES ATTORNEY'S OFFICE  
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FOR THE DEFENDANT:

FEDERAL PUBLIC DEFENDER'S OFFICE  
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1 (Open court, defendant present)

2 **THE COURT:** Next will be Mr. Bailes, if I'm  
3 pronouncing that correctly, in 14-CR-211. Mr. Bailes, if  
4 you'll come up. We have a motion pending that I think I just  
5 saw this morning. Yeah, it was filed yesterday.

6 All right. Mr. Bailes, in 14-CR-211, if you'll raise  
7 your right hand, please.

8 (The oath was administered)

9 **THE COURT:** Are you the same Carl Wade Bailes,  
10 represented presently by Mr. Adams --

11 **THE DEFENDANT:** Yes, Your Honor.

12 **THE COURT:** -- who's charged here with child  
13 pornography?

14 **THE DEFENDANT:** Yes, Your Honor.

15 **THE COURT:** And, Ms. Thompson, I had some reason to  
16 think that there might be something other than just the usual  
17 child pornography case. Are there other counts? Because I  
18 don't have the indictment right in front of me.

19 **MS. THOMPSON:** Your Honor, there is a superceding  
20 indictment that charged Mr. Bailes with production of child  
21 pornography for engaging in sexual activity with a minor and  
22 documenting that sexual activity.

23 **THE COURT:** Okay. So the prison ranges,  
24 minimum/maximum, would be what if convicted on all charges?

25 **MS. THOMPSON:** On all charges he faces 210 years

1 imprisonment.

2           **THE COURT:** Okay. Because they could run  
3 consecutively?

4           **MS. THOMPSON:** Correct. And his guideline range is  
5 360 to life. So by law they should be stacked to get to 210  
6 years if convicted of all charges.

7           **THE COURT:** Okay. And, Mr. Bailes, do you understand  
8 the charges against you?

9           **THE DEFENDANT:** Yes, Your Honor.

10           **THE COURT:** All right. And you filed -- I'm sorry.  
11 Mr. -- well, first of all, you wrote a very lengthy letter,  
12 which I perused. And perhaps you didn't know, but now you  
13 know, we don't do things in secret. So when people like you  
14 write letters to me --

15           I've got -- I've already got that. I've got the  
16 motion.

17           -- I send them off to both sides so that Mr. Adams  
18 doesn't send me something secret unless -- exceptions to it.  
19 But Mr. Adams and Ms. Thompson know everything that's going on.  
20 We don't -- in some places they -- back in history they had the  
21 Star Chamber where things got done in secret. And in today's  
22 cultures people have secret courts. In fact, from what I  
23 understand, in Mexico the defendant doesn't necessarily have to  
24 be in court. The judge just reads the report and says, "Yep,  
25 Mr. Bailes is guilty," whether he's there or not. We don't do

1 things that way. So similarly, when you send me things, I send  
2 it out, unless there's a reason to seal it. But there wasn't  
3 in your case.

4 So, of course, you had some things -- some concerns  
5 about Mr. Adams as your lawyer. Mr. Adams now has presented  
6 his motion asking for a divorce between you and him as lawyer  
7 and client. And I probably will grant it. But I'm going to  
8 tell you that, first of all, we have about a hundred lawyers on  
9 each side, of the government and the defense, in these kind of  
10 cases. Out of, I think, 7,000 lawyers in this 14-county area  
11 there are only a hundred that are allowed to represent the  
12 United States, and there are only about a hundred allowed to  
13 represent you in this courthouse. And Mr. Adams is one of  
14 them.

15 And, of course, his office is the Public Defender  
16 office. They go through extra training and experience. And  
17 then Mr. Featherston, who was here earlier, he's a group of  
18 private counsel who go through extra training and have extra  
19 experience to be able to get on the appointment list. You  
20 can't just show up with a law license and get appointed because  
21 we want it done correctly. So the Court has great confidence  
22 in Mr. Adams and the other lawyers that they do it correctly.  
23 And if I grant the motion, then you will be appointed new  
24 counsel.

25 However, we're not going to do that every time you

1 get a new lawyer that you don't like what you hear. And the  
2 analogy that I'm going to give you is I'm sure when you were on  
3 the aircraft carrier -- and you said you had some physical  
4 health issues, so you've been to doctors before, right?

5 **THE DEFENDANT:** Yes, Your Honor.

6 **THE COURT:** So if someone goes to a doctor -- by the  
7 way, is that a Masonic tattoo on your --

8 **THE DEFENDANT:** Yes, Your Honor.

9 **THE COURT:** Okay. Officer Vernon, do you have one of  
10 those Masonic tattoos?

11 **PROBATION OFFICER:** No, sir. I was told you're not  
12 supposed to do that.

13 **THE COURT:** Nor do I. Are you actually an active  
14 Mason?

15 **THE DEFENDANT:** Currently I'm pending suspension,  
16 Your Honor.

17 **THE COURT:** Okay. All right. What blue lodge? San  
18 Antonio or --

19 **THE DEFENDANT:** Yes, Your Honor. I'd rather not say  
20 which lodge.

21 **THE COURT:** At which one?

22 **THE DEFENDANT:** I would rather not say which lodge,  
23 Your Honor. I do not want to bring anything to them.

24 **THE COURT:** Okay. All right. Well, we may be  
25 members of the same lodge. I don't know. My father grew up in

1 a Masonic orphanage, along with his aunt -- his sister and  
2 brother because there was no Social Security back in those  
3 days. And so the widows -- women couldn't make a living. And  
4 so the widows had to put their kids in the orphanages. And  
5 fortunately, the Masons had a facility to educate and raise  
6 them. My uncle said he would rather there had been Social  
7 Security. He could have stayed home.

8           At any rate, so you've been to a doctor. And the  
9 doctor says, "Mr. Bailes, because of your, perhaps, exposure to  
10 radiation on the Abraham Lincoln, you have six months to live."  
11 And you say, "Man, I don't like that. I want to go get a  
12 second opinion."

13           So you go to another doctor. And he says, "Mr.  
14 Bailes, because of your exposure to radiation on the aircraft  
15 carrier, you have six months to live." Well, nobody would want  
16 to hear that. I had a brother-in-law who heard that  
17 information, and he didn't like it. My sister didn't like it.  
18 But he died just like the doctor said he was going to.

19           Mr. Adams is your legal doctor. You may not like  
20 what he's telling you.

21           I presume, Mr. Adams, you've been involved in this  
22 case long enough to have looked at the government's evidence  
23 and made some at least preliminary analysis and given Mr.  
24 Bailes your advice and counsel, without telling me obviously  
25 what you told him?

1           **MR. ADAMS:** Yesterday my investigator went to review  
2 the newest evidence, yes.

3           **THE COURT:** Okay. All right. So, Mr. Bailes, you  
4 may not like what Mr. Adams tells you, but -- and I don't know  
5 what another lawyer will tell you. But you may not like what  
6 the next lawyer tells you. But, again, as you have heard me  
7 tell these folks today, it's your choice. All Mr. Adams can do  
8 or any lawyer is say: Here it is.

9           **MR. ADAMS:** Your Honor, if I may, this is a status  
10 conference. Today was intended to be -- to firm up the trial  
11 date. Right now it's December 8th, if I'm not mistaken.

12           **THE COURT:** Right. Right. And that's why I say "if"  
13 I grant the motion, because this has been set for trial now.  
14 And if you want a trial, that's fine. But I've got 250 other  
15 defendants like you on Ms. Vela's docket. And so you don't  
16 just get to -- you don't get to manage the docket. Ms. Vela  
17 manages the docket.

18           **THE DEFENDANT:** Your Honor, if I may, it's not the  
19 fact that I don't like what Mr. Adams is telling me. It's the  
20 fact that Mr. Adams hasn't told me anything. I mean, I was  
21 told there was a new indictment. I was told of the original  
22 indictments. That was it. After a few brief visits -- in the  
23 past nine months I've seen him maybe three times, and each one  
24 10 to 15 minutes, and then he gets up and leaves. And I have  
25 no idea what's going on. I have not been told anything.

1 That's the concern that I have, Your Honor. It's not that I  
2 don't care for what he's saying. He's not saying anything.

3 **THE COURT:** Well, I guess the ultimate question today  
4 is, do you want to go to trial or not?

5 **THE DEFENDANT:** I would like a trial. Yes, Your  
6 Honor. Unless the charges are going to be dropped against me,  
7 I would love a trial. Yes, Your Honor.

8 **THE COURT:** Okay. All right. Well, Mr. Adams,  
9 obviously, if your motion is granted, then that takes care of  
10 the speedy trial issue until new counsel gets up to speed.

11 Mr. Bailes, it may be quite some time because you  
12 go -- it's kind of like what the immigration advocates say: We  
13 want the people who are here illegally to go to the end of the  
14 line. So in terms of these other folks who are going to trial  
15 or who are pleading guilty and getting their punishment set and  
16 so forth, you may go to the end of the line. And I can't --  
17 certainly within the speedy trial rules, we'll do the best we  
18 can. But there are all kinds of exceptions to the speedy trial  
19 rules. Right now you have a definite, firm trial setting of  
20 the first part of December.

21 That is complicated somewhat -- Mr. Adams, usually I  
22 get these motions from the defendant. But now you're saying  
23 that you just feel like, as an officer of the Court and giving  
24 proper loyalty to your client, you just can't do it?

25 **MR. ADAMS:** Correct.



1           **THE COURT:** Okay. Well, I don't -- Ms. Thompson, I  
2 don't know that I've got much choice but to grant the motion.

3           All right. Well, Mr. Bailes, do you have any  
4 wherewithal -- well, first of all, have you talked to any other  
5 lawyers besides Mr. Adams? You don't have to tell me who or  
6 what they said, but have you talked to any other lawyers?

7           **THE DEFENDANT:** No, Your Honor.

8           **THE COURT:** Do you have the wherewithal to hire your  
9 own lawyer?

10          **THE DEFENDANT:** No, Your Honor.

11          **THE COURT:** Okay. All right. Well, I will consult  
12 with Ms. Vela when we get finished. And, Ms. Vela, if you'll  
13 make a note. And then I'll decide who to appoint, and then  
14 they will come and visit with you.

15          Mr. Adams, to the extent you have a file with  
16 investigative materials, he'll turn that over to your new  
17 lawyer, and then we'll set another date somewhere down the  
18 line. On the other hand, once you hear the advice of your new  
19 lawyer and if you don't want a trial, then you need to let the  
20 lawyer know so we can get this resolved. Do you have any  
21 questions?

22          **THE DEFENDANT:** No, Your Honor.

23          **THE COURT:** Mr. Adams, anything further?

24          **MR. ADAMS:** No, Your Honor. Thank you.

25          **THE COURT:** Ms. Thompson?

1           **MS. THOMPSON:** No, Your Honor.

2           **THE COURT:** All right. Good luck. Thank you, sir.

3 You may go with the marshals.

4 \* \* \*

5           (End of requested transcript)

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2 I certify that the foregoing is a correct transcript  
3 from the record of proceedings in the above-entitled matter. I  
4 further certify that the transcript fees and format comply with  
5 those prescribed by the Court and the Judicial Conference of  
6 the United States.

7  
8 Date: 1/10/2016

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